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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,958	01/28/2002	Edward R. diGirolamo	4782-022	4628

24112 7590 04/01/2004

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RALEIGH, NC 27602

EXAMINER
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HORTON, YVONNE MICHELE

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 04/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/058,958

Applicant(s)

DIGIROLAMO ET AL.

Examiner

Yvonne M. Horton

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NW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,7,9,13,16-18,24 and 25 is/are rejected.
- 7) ☒ Claim(s) 3,6,8,10-12,14,15,19-23 and 26-29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1,2,4,5,7,9 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #5,729,950 to HARDY. HARDY discloses a wall structure (10,10a) including a pair of opposed members (12,14) and (12a,14a) having a plurality of studs (16,18) and (16a,18a) spaced therebetween; wherein the studs (16,18) and (16a,18a) have openings (62) therein for receipt of diagonal members (26) and (26a) therethrough. Regarding claim 2, the wall structure (10,10a) includes corner areas (CA) wherein the diagonal members (26) and (26a) are connected therebetween, see the marked attachment. In reference to claims 4 and 5, the diagonal members (26) and (26a) are elongate rods connected between the corner areas (CA), column 3, lines 33-38. Regarding claim 7, the wall structure (10,10a) further includes a pair of opposing sides (colored blue) and a central area (colored red) wherein the diagonal member (26) and (26a) extends through the central area (colored red), see the marked attachment. In reference to claim 9, the corner areas (CA) are opposed corner areas (CA) and the diagonal members (26) and (26a) are connected thereto by connectors (welds, brazing, bolting) or slots (62), column 3, lines 33-38. Regarding claim 13, the connector (bolt), column 3, lines 33-38, are anchored between a stud (16,18) and (16a,18a) and one of the opposed members (12,14) and (12a,14a).

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Claims 16-18 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #5,729,950 to HARDY. HARDY discloses a wall structure (10,10a) including upper members (12) and (12a), lower members (14) and (14a) having a plurality of studs (16,18) and (16a,18a) spaced therebetween; wherein the studs (16,18) and (16a,18a) have openings (62) therein for receipt of diagonal members (26) and (26a) therethrough and a pair of connectors (bolts), column 3, lines 33-38, secured to opposed corner areas (CA), see the marked attachment. In reference to claims 17 and 18, the diagonal member (26) and (26a) is an elongate rigid shaft member. Regarding claim 24, the wall structure (10,10a) further includes side members (colored blue) and a central area (colored red) wherein the diagonal members (26) and (26a) extending through the central area (colored red), see the marked attachment.

Claim 25 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #5,729,950 to HARDY. HARDY discloses a wall structure (10) including a pair of opposed member (12,14) and (12a,14a), a series of spaced studs (16,18) and (16a,18a) having openings (62) for receipt of a diagonal member (26) and (26a) extending therethrough and being connected between corner areas (CA) by connectors (welds, brazing, bolting) or slots (62), column 3, lines 33-38.

***Allowable Subject Matter***

Claims 3,6,8,10-12,14,15,19-23 and 26-29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909. The examiner can normally be reached on 6:30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (703) 308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
YMH

March 29, 2004

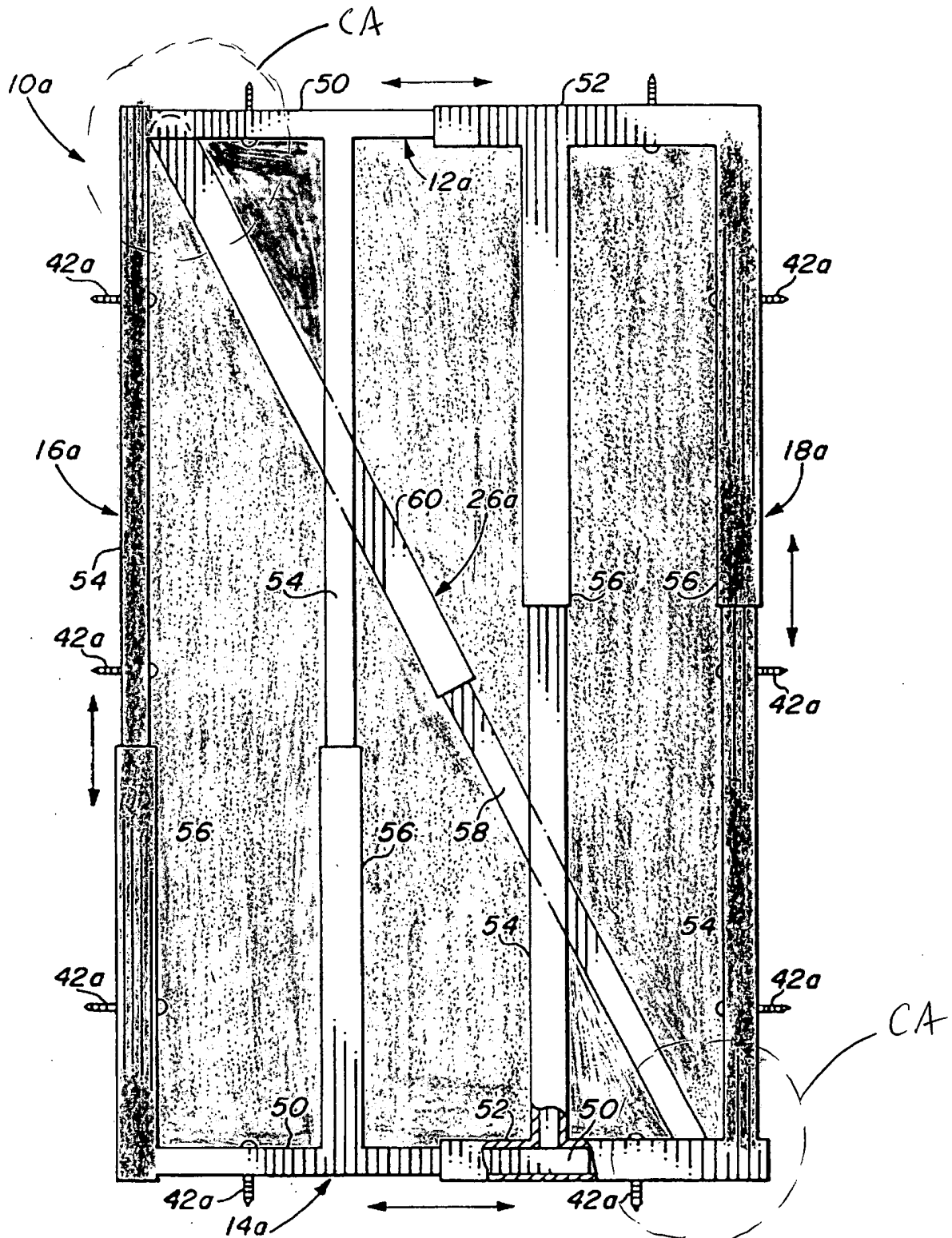


FIG. 2

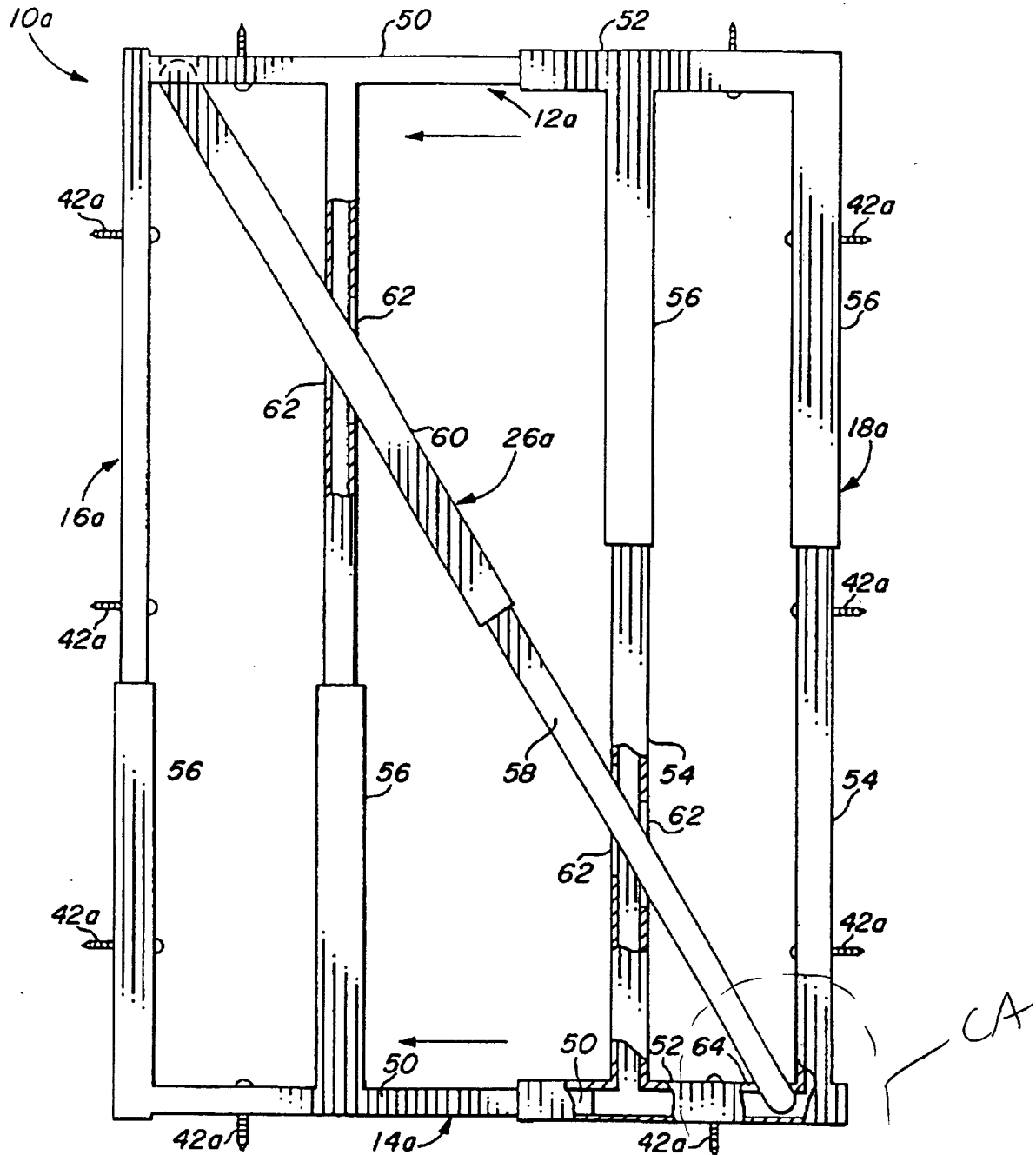


FIG. 3